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**DIGEST OF RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

**SUSSEX COUNTY v. JARRATT.**

[106 S. E. 627.]

April 6, 1921.

**1. Taxation (§ 297\*)—Commissioner without Authority to Lay Levy.**—A commissioner cannot lay a levy of any sort, his duties being to make assessments consequent upon a properly ordered levy whether made by the General Assembly, county board of supervisors, or city council.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

**2. Taxation (§ 300\*)—Statute Relating to Omitted Taxes Held Not to Permit Board of Supervisors to Make Levies for Past Years.**—Code 1904, § 508, as amended by Acts 1916, c. 491, relating to omitted taxes, levies, etc., and assessments thereof, relates to assessing officers only, and is intended to increase their powers of assessment so as to include antecedent years, but does not confer upon boards of supervisors the power to make levies for years that have passed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

**3. Taxation (§ 300\*)—Statute Held Not to Authorize Nunc Pro Tunc Levies for Past Years.**—Code 1904, § 508, as amended by Acts 1916, c. 491, relating to omitted taxes, does not afford to the commissioners the power to make a nunc pro tunc levy of taxes for past years; the loose use of the word "levies" in several places in the body of the act, in connection with the powers and duties of assessing officers, not being sufficient to support such construction.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

**4. Taxation (§ 362\*)—Statute Construed as Referring to Act of Officers Collecting under Assessment, but Not to Levying an Assessment.**—Under Code 1904, § 508, as amended by Acts 1916, c. 491, proviso No. 2, relating to omitted taxes, a levy or collection of assessments plainly refers, not to the legislative act of imposing a tax, but to the act of an officer collecting the tax tickets that are issued pursuant to an assessment for "taxes alleged to have been omitted from the assessments prior to 1912," but does not permit a levy.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

**5. Taxation (§ 362\*)—Commissioners Not Empowered by Statute to Tax Property Not Assessed by Proper Tribunal.**—Code 1904, § 508,

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

as amended by Acts 1916, c. 491, does not empower commissioners to assess property not charged with a tax by some proper tribunal.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

**6. Constitutional Law (§ 29\*)—Constitutional Mandate that Taxes Shall Be Levied Does Not in Itself Impose a Tax.**—The mere mandate of the Constitution that taxes shall be laid on certain property by the General Assembly or board of supervisors does not of itself impose the tax, though failure to do so may be a breach of official duty, so that some positive action to that end must be taken by the legislative body to levy a tax.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

Appeal from Circuit Court, Sussex County.

Upon petition for rehearing. Petition denied.

For former opinion, see 106 S. E. 384.

*Thos. H. Howerton*, of Waverly, and *Buford & Peterson*, of Lawrenceville, for appellants.

*Geo. Bryan*, of Richmond, and *Wm. B. Cocke*, of Stony Creek, for appellees.

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SMITH *v.* CITY OF NEWPORT NEWS.

March 17, 1921.

[106 S. E. 521.]

Error to Corporation Court of Newport News.

Proceedings by one Smith against City of Newport News. Judgment was rendered by the corporation court of the City of Newport News upon appeal from a finding of the State Industrial Commission, and plaintiff brings error. Dismissed.

*A. C. Garrett*, of Newport News, for plaintiff in error.

*Lett & Massie*, of Newport News, for defendant in error.

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BOARD OF SUP'RS OF LOUISA COUNTY *v.* BIBB,

Commonwealth's Atty.

April 6, 1921.

[106 S. E. 684.]

**Counties (§ 174\*)—States (§§ 116, 119\*)—Statutes Authorizing County Bond Issue to Improve State Highways, and Providing for Reimbursement of County by State, Held Constitutional.**—Acts 1920, c. 213, authorizing bond issue by county for improvement of state highways, and Acts 1920, c. 184, authorizing the county to improve a

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.